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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,442	11/02/2000	Klaus Hofrichter	20381-19 (50P3910)	7693

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EXAMINER

LONSBERRY, HUNTER B

ART UNIT PAPER NUMBER

2611

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/705,442

Applicant(s)

HOFRICHTER ET AL.

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-14, 18-21, 28-34, 56-62 and 64-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-14, 18-21, 28-34, 56-62 and 64-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 2/23/05 have been fully considered but they are not persuasive.

1)Applicant argues that Edson does not teach determining device ID information for devices within the network, providing a configuration profile to a remote server, and automatically downloading an application associated with a device based on a home network configuration profile (Response page 2).

Regarding applicant's argument 1, Edson discloses automatically downloading an application from a server to the home network (column 11, lines 37-40). The examiner relies upon Tracton to teach determining a device ID (column 8, lines 6-39) and providing a configuration profile (column 8, lines 6-39, column 11, lines 4-39, column 12, lines 21-27, column 14, lines 52-67). Additionally, Edson discloses that the downloads of configurations, diagnostics and software and may be preformed automatically without user input for the PC, gateway and other data devices, thus configuration information for each device forms a configuration profile of the devices on the home network (column 11, lines 30-40).

Applicant argues that Tracton does not teach automatically downloading an application associates with a device within a network from a served based on the provided home network configuration profile (response page 3).

Regarding applicants argument 1, the examiner relies on Edson for teaching automatically downloading an application associated with a device from a server (column 11, lines 37-40) and for determining a home network profile (column 11, lines 4-19, column 12, lines 21-27, column 14, lines 52-67). Tracton is relied upon for transmitting a hardware profile to a server and determining ID information for a hardware device (column 3, line 66-column 4, line 14, column 8, lines 6-39). Claim 1 merely requires that a profile is transmitted which is based on at least one electronic device and it's associated ID information. As Traction discloses a network with at least 1 device, which transmits its profile information to a remote server, Traction teaches providing a configuration profile to a server. The combination of Edson and Traction, would result in a system, which provides profile information to a remote server so that tailored application data would be provided to a home-networked device.

Applicant argues that there is no motivation to combine Edson with Tracton, and that hindsight was used in the combination (response pages 3-5).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

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reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In the current office action, the Gibbs reference has been dropped, and in its place, additional citations from both Edson and Tracton have been substituted. Edson discloses automatically downloading an application from a server to the home network (column 11, lines 37-40) and creating a network configuration profile. Tracton is relied upon for transmitting a hardware profile to a server and determining ID information for a hardware device in order to provide appropriate application data which is tailored to the devices on the network (column 3, line 66-column 4, line 14, column 8, lines 6-39). The combination of Edson and Tracton, would result in a system, which provides profile information to a remote server so that tailored application data would be provided to a home-networked device.

Applicant argues that neither Edson, Tracton nor their combination teach an electronic device based on the provided configuration profile automatically downloads

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an application from the remote server, or downloads media content from a remote server to be output on one or more of the devices.

Regarding applicants argument, Edson discloses on column 11, lines 4-40, automatically downloading applications (software downloads, diagnostics), which are based on configuration information. Tracton discloses downloading webpages and MPEG data based on configuration data (column 7, lines 15-25, 35-53).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 10, 12-14, 18-21, 28-34, 37-44, 56-62, and 64-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,526,581 to Edson in view of U.S. Patent 6,470,378-B1 to Tracton.

Regarding claim 1, Edson discloses a processes of identifying and managing applications comprising:

Determining a home network configuration profile (column 11, lines 4-19, column 12, lines 21-27, column 14, lines 52-67),

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Automatically downloading an application from the server to the home network, the application being operative to provide to the electronic device a diagnostic application (column 11, lines 37-40)

Executing said downloaded application within the home network (column 11, lines 37-40)

Edson does not disclose determining device identification information associated with at least one electronic device in the network system, transmitting a profile to a remote server and based upon the profile downloading an application from the server to a network.

Tracton discloses a system in which a client machine 102, builds a profile which includes processor speed, memory, data storage size, and network speed and sends this profile to a server in order to receive a network application (differently formatted MPEG streams) based upon its profile (column 3, line 66-column 4, line 14, line 33-column 8, line 39), each transmitted profile includes a hardware identifier which may be a MAC address, or unique processor identification value, as well as a characteristics portion (column 8, lines 6-39), thus transmitting application data which is tailored to the configuration of the device.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Edson to include the determine device information to create a profile, transmit the profile to a remote server and download the appropriate data based upon that profile as taught by Tracton in order to tailor the application data to the configuration of the home network.

Regarding claims 2, 18, 29, 39, 57, Tracton discloses determining the profile based on bandwidth capacity (column 5, lines 49-61).

Regarding claims 3, 4, 19, 20, 30, 31, 40, 41, 58 and 59, Tracton discloses a transmitting a profile to a server which includes hardware information, a Netscape browser may be run on a user device (column 76, lines 44-49).

The combination of Edson and Tracton does not disclose a profile, which includes history of use information, and a user profile.

The examiner takes official notice that utilizing a user profile, and taking into account history of use information is notoriously well known in the art. For example, Windows95 enables specific user logins which enable a user to have tailored settings for fonts, background colors and the like, likewise a web browser may transmit a history of use in order to customize advertising to a user.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Edson and Tracton to utilize a user profile, and to include history of use information as part of a profile, thus enabling user customization of a graphical interface, in a manner which is aesthetically pleasing to a user.

Regarding claims 5-6, 21, 32, 33, 42, 43, 60, and 61, Tracton discloses a system in which a client machine 102, builds a profile which includes processor speed, memory, data storage size, and network speed and sends this profile to a server in order to



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receive a network application (differently formatted MPEG streams) based upon its profile (column 3, line 66-column 4, line 14, line 33-column 8, line 39).

Regarding claim 7, 34, 44, and 62, Tracton discloses a profile, which includes hardware capabilities.

The combination of Edson and Tracton fails to disclose security and decryption capabilities.

The examiner takes official notice that storing information concerning security and decryption capabilities is notoriously well known in the art. For example, Netscape Navigator includes certificates and cryptographic modules which are used to enable secure access to applications or remote servers, if a certificate is unauthorized, or a level of encryption is unsupported, the application is not able to access any additional data.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Edson and Traction to utilize the security certificates and cryptographic modules of Netscape, in order to provide protection to a user for sensitive data.

Regarding claims 10 and 37, Traction discloses transmitting client ID information and performing a search to match up an application which will be displayed appropriately based upon the clients characteristics (column 3, line 66-column 4, line 14, line 33-column 8, line 39).

Regarding claim 12, Edson discloses a gateway 13 with CPU 105, which may execute an IP telephony application through the internet (column 9, lines 15-33). Edson's IP telephony application inherently controls AV devices, as the Gateway 13 would have to control either the ADSL modem, XLINX or DSL interface in order to transmit data associated with the IP telephony device to the Internet.

Regarding claim 13, Edson discloses that the home-networked devices may exchange instructions and AV data (column 7, lines 44-56, column 15, lines 14-28).

Regarding claim 14, Tracton discloses that after the profile is transmitted to the server, the content is then automatically downloaded for display (column 5, lines 24-49, column 5, lines 47-64).

Regarding claim 28, Edson discloses a processes of identifying and accessing media comprising:

Determining a home network configuration profile (column 11, lines 4-19, column 12, lines 21-27, column 14, lines 52-67),

Automatically downloading an application from the server to the home network, the application being operative to provide to the electronic device a diagnostic application (column 11, lines 37-40)

Executing said downloaded application within the home network (column 11, lines 37-40)

Edson does not disclose determining device identification information associated with at least one electronic device in the network system, transmitting a profile to a remote server and based upon the profile downloading an application from the server to a network.

Tracton discloses a system in which a client machine 102, builds a profile which includes processor speed, memory, data storage size, and network speed and sends this profile to a server in order to receive a network application (differently formatted MPEG streams) based upon its profile (column 3, line 66-column 4, line 14, line 33-column 8, line 39), each transmitted profile includes a hardware identifier which may be a MAC address, or unique processor identification value, as well as a characteristics portion (column 8, lines 6-39).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Edson to include the determine device information to create a profile, transmit the profile to a remote server and download the appropriate data based upon that profile as taught by Tracton in order to tailor the application data to the configuration of the home network.

Regarding claims 38 and 56, Edson discloses in figure 1, a gateway 13, coupled to a network of devices comprising,

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A communications interface (CATV interface 17, x-link 19, ADSL15, Figure 2), which the electronic device communicates with a remote server (column 10, lines 15-29, column 11, lines 24-40),

A network communications interface which the electronic device communicates with the devices within the network of devices (figure 2, Power Line interface 123, HPNA interface 121)

Determining a home network configuration profile (column 11, lines 4-19, column 12, lines 21-27, column 14, lines 52-67),

Automatically downloading an application from the server to the home network, the application being operative to provide to the electronic device a diagnostic application (column 11, lines 37-40)

Executing said downloaded application within the home network (column 11, lines 37-40).

Edson does not disclose determining device identification information associated with at least one electronic device in the network system, transmitting a profile to a remote server and based upon the profile downloading an application from the server to a network.

Tracton discloses a system in which a client machine 102, builds a profile which includes processor speed, memory, data storage size, and network speed and sends this profile to a server in order to receive a network application (differently formatted MPEG streams) based upon its profile (column 3, line 66-column 4, line 14, line 33-column 8, line 39), each transmitted profile includes a hardware identifier which may be

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a MAC address, or unique processor identification value, as well as a characteristics portion (column 8, lines 6-39).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Edson to include the determine device information to create a profile, transmit the profile to a remote server and download the appropriate data based upon that profile as taught by Tracton in order to tailor the application data to the configuration of the home network.

Regarding claim 64, Edson discloses that the downloaded application is executed at a gateway device 13 (column 11, lines 30-33).

Regarding claims 65 and 66, Edson discloses a gateway device 13 (Figures 1 and 2).

3. Claims 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,526,581 to Edson in view of U.S. Patent 6,470,378-B1 to Tracton in further view of U.S. Patent 6,618,764 to Shteyn.

Regarding claim 11, Tracton and Edson disclose networked applications.

The combination of Tracton and Edson do not disclose the use of a downloaded device interplay application, which utilizes the resources of at least 2 electronic devices.

Shteyn discloses a HAVI enabled network, which utilizes a HAVI registry 324 which keeps track of devices on the home network, software 320 may connect to the Internet to download a Java applet, which enables the control of lights on the network by another object (column 15, line 31-column 16, line 55).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Tracton and Edson to utilize the HAVI network and registry of Shteyn, thus enabling interoperability of different devices on a common network.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-


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272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBL



CHRIS GRANT  
PRIMARY EXAMINER